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United Nations conference to negotiate a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination

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Agenda item 8 (b)

General exchange of views: general exchange of views on all matters

Possible elements of a United Nations nuclear-weapon-ban treaty

Submitted by Papua New Guinea

I. Introduction

1. Pacific islanders have suffered greatly as a result of half a century of nuclear testing in our region. The ongoing impact of more than 300 nuclear test explosions on our fragile ecology, physical health and mental well-being has been profound. This lived experience of the horrors of nuclear weapons informs our policies on nuclear disarmament and impels us to contribute substantively to the United Nations negotiations on a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination, as authorized under resolution 71/258.

2. In the present paper, we set out a number of recommendations with respect to the content of the legally binding instrument to prohibit nuclear weapons. We consider the prohibition and elimination of nuclear weapons to be an essential part of our broader struggle to end violence, promote harmony and friendship among the peoples of the world, achieve justice and respect for human rights and ensure a safe, clean and healthy environment for the benefit of present and future generations. Having experienced the devastating humanitarian consequences of nuclear testing in our region, we are firmly committed to achieving a robust and effective treaty.

II. Preambular elements

3. In the preamble to the treaty, States parties should, inter alia:

(a) Express their deep concern about the catastrophic humanitarian consequences of any use of nuclear weapons and the grave risk of such use so long as the weapons exist;



(b) Express their determination, for the sake of all humankind, to eliminate nuclear weapons completely;

(c) Stress that, in a world where basic human needs have not yet been met, the vast resources allocated to the production, modernization and maintenance of nuclear arsenals should be redirected towards social and economic development;

(d) Fully reject any role for nuclear weapons in military doctrines in the light of their indiscriminate nature, inherent immorality and potential to annihilate humanity and the planet as a whole;

(e) Express their determination to ensure the full realization of the rights of all victims of nuclear weapons and acknowledge the disproportionate and ongoing impact of the use, testing and development of nuclear weapons on women and girls and on indigenous communities around the world;

(f) Resolve to do their utmost to provide assistance, including medical care, rehabilitation and psychological support, to all victims of nuclear weapons and to provide for their social and economic inclusion;

(g) Stress the role of public conscience in furthering the principles of humanity as evidenced by the global call for the total elimination of nuclear weapons, and recognize the efforts to that end undertaken by the United Nations, the International Red Cross and Red Crescent Movement and the International Campaign to Abolish Nuclear Weapons;

(h) Emphasize the desirability of attracting the adherence of all States to the treaty and express their determination to work strenuously towards the promotion of its universalization and full implementation;

(i) Welcome the broad support for the international norms prohibiting other indiscriminate weapons, including biological and toxin weapons, chemical weapons, anti-personnel landmines and cluster munitions;

(j) Underscore that any use of nuclear weapons would be incompatible with the requirements of international law, including international humanitarian law, or the laws of morality or the dictates of public conscience;

(k) Reaffirm that there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control;

(l) Reaffirm also the objective of general and complete disarmament.

III. General obligations

4. States parties should never, under any circumstances, undertake:

(a) To use or threaten to use nuclear weapons, or engage in any military preparations, including planning and training, for the use or threat of use of nuclear weapons;

(b) To conduct research on, develop, produce, otherwise acquire, test, deploy, stockpile, retain, possess or have control over, or transfer to anyone, directly or indirectly, nuclear weapons;

(c) To develop, produce or test missiles, rockets or other systems capable of delivering nuclear weapons and specially designed for such use;

(d) To assist, finance, encourage or induce anyone to engage in any activity prohibited to States parties under the treaty.

5. States parties should undertake to prevent the stationing or transit of nuclear weapons in their territory, including their airspace and territorial waters, and to deny visits to their ports by ships carrying nuclear weapons or visits to their airfields by aircraft carrying nuclear weapons.

6. States parties should undertake not to invest, directly or indirectly, in companies or other entities materially involved in programmes to develop or modernize nuclear weapons, and to prohibit such investment by companies or other entities within their jurisdiction.

IV. Definitions

7. If the treaty is to define "nuclear weapon" or "nuclear explosive device", it could adopt the definition contained in the South Pacific Nuclear Free Zone Treaty of 1985, namely, any nuclear weapon or other explosive device capable of releasing nuclear energy, irrespective of the purpose for which it could be used, including such a weapon or device in unassembled and partly assembled forms, but not the means of transport or delivery of such a weapon or device if separable from and not an indivisible part of it.

V. Stockpile destruction

8. States parties should undertake to destroy all nuclear weapons under their jurisdiction or control as soon as possible and in accordance with verification arrangements and a time frame to be determined collectively by the States parties. In destroying all nuclear weapons under their jurisdiction or control, States parties should ensure that all necessary safety precautions are observed to protect populations and the environment.

VI. Assistance to victims

9. States parties should undertake to provide adequate assistance to victims of nuclear weapons in areas under their jurisdiction or control and to provide for their social and economic inclusion. Such assistance should include medical care, rehabilitation and psychological support. States parties that are in a position to do so should assist other States parties in fulfilling this obligation.

10. The treaty should define victims of nuclear weapons broadly to include all persons who have been killed or have suffered physical or psychological injury, economic loss, social marginalization or substantial impairment of the realization of their rights as a result of the use, testing or development of nuclear weapons, including those persons directly affected by nuclear weapons and their affected families and communities.

VII. Environmental remediation

11. States parties should undertake to remediate territories contaminated as a result of activities relating to the use, testing, production or storage of nuclear weapons in their territory. Those that are in a position to do so should assist other States parties in fulfilling this obligation.

VIII. International cooperation and assistance

12. States parties should have the right to seek and receive assistance in fulfilling their obligations under the treaty. Such assistance may be provided through, *inter alia*, the United Nations, international, regional or national organizations or non-governmental organizations, or on a bilateral basis.

13. States parties that are in a position to do so should undertake to provide assistance to contribute to the economic and social recovery needed owing to the use, testing and development of nuclear weapons in affected States parties.

IX. Transparency measures

14. States parties should report to the Secretary-General of the United Nations as soon as practicable, and in any event not later than a specified number of days after the entry into force of the treaty for those States parties, on, *inter alia*:

(a) The number, type and location of all nuclear weapons in their territory and/or under their jurisdiction or control;

(b) The status and progress of programmes for the destruction of all nuclear weapons under their jurisdiction or control;

(c) The status and progress of programmes for providing assistance to victims of nuclear weapons;

(d) The status and progress of programmes for remediating territories contaminated by nuclear weapons.

X. Facilitation and clarification of compliance

15. States parties should undertake to consult and cooperate with one other regarding the implementation of the treaty and to work together in a spirit of cooperation to facilitate compliance by States parties with their obligations.

16. The treaty should establish a procedure by which States parties may clarify and seek to resolve questions relating to a matter of compliance by other States parties with the provisions of the treaty.

XI. National implementation measures

17. States parties should take all appropriate legal, administrative and other measures, including the imposition of penal sanctions, to prevent or suppress any activity prohibited to States parties under the treaty undertaken by persons or on territory under their jurisdiction or control.

XII. Settlement of disputes

18. The treaty should stipulate that, when a dispute arises between two or more of its States parties relating to the interpretation or application of the treaty, the States parties concerned should consult together with a view to the expeditious settlement of the dispute by negotiation or by other peaceful means of their choice, including recourse to a meeting of States parties and referral to the International Court of

Justice. The proposed entity (see paras. 21 and 22) could also play a role in the settlement of disputes.

XIII. Meetings of States parties

19. States parties should meet at least annually in order to consider and, where necessary, take decisions in respect of any matter with regard to the application or implementation of the treaty.

XIV. Establishment of an entity

20. The treaty should establish an entity, under the auspices of the United Nations, to oversee the implementation of the treaty, ensure compliance with its provisions and provide a forum for consultation and cooperation among States parties. All States parties should be members of the entity.

21. The entity should also have a mandate to educate the public about the treaty and the humanitarian impact of nuclear weapons.

XV. Amendments

22. The treaty should allow for the possibility of amendments. Nevertheless, it should not allow certain States parties to conclude any agreement to modify the treaty as between themselves alone.

XVI. Signature

23. The treaty should be open for signature by any State, including one that is not a member of the United Nations.

XVII. Ratification and accession

24. The treaty should be subject to ratification, acceptance or approval by its signatories. Any State that has not signed and ratified the treaty before its entry into force should be permitted to accede to it at any time thereafter. The treaty should enter into force for that signatory on the date of deposit of its instrument of ratification.

XVIII. Entry into force

25. The treaty should enter into force six months after 30 States or thereabouts have deposited their instruments of ratification.

26. Entry into force should not be contingent upon the ratification of any particular State or group of States. The difficulty in securing the entry into force of the Comprehensive Nuclear-Test-Ban Treaty, which was opened for signature more than two decades ago, provides an important lesson in this regard.

XIX. States not parties to the treaty

27. States parties should undertake to encourage States not parties to the treaty (third States) to ratify, accept, approve or accede to the treaty, with the goal of attracting the adherence of all States to the treaty.

XX. Reservations

28. The treaty should specify that States parties are not permitted to make reservations with respect to any articles of the treaty.

XXI. Duration and withdrawal

29. The treaty should be of unlimited duration and should remain in force indefinitely. It should not include a withdrawal provision.

XXII. Depositary

30. The Secretary-General of the United Nations should serve as the depositary of the treaty.

XXIII. Authentic texts

31. The Arabic, Chinese, English, French, Russian and Spanish texts of the treaty should be equally authentic.
